

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte FRIEDRICH MUELLER,  
SANDOR DOLGOS and  
PETER SZAMKO

Appeal No. 2005-2285  
Application 09/971,031

HEARD: NOVEMBER 17, 2005

Before FRANKFORT, PATE, and CRAWFORD, Administrative Patent Judges.  
FRANKFORT, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 through 7, all of the claims pending in this application.

Appellants' invention relates to an extracorporeal blood (ECB) treatment system including an ECB station having an ECB means for performing blood treatments such as hemodialysis, hemofiltration and hemodiafiltration. The ECB station further includes an internal web server communicating with the ECB means, an internal browser

Appeal No. 2005-2285  
Application No. 09/971,031

communicating with the internal web server, and a user interface communicating with the internal browser. As noted on page 2 of the specification:

"The web server is software that provides information about the ECB means such that the information can be transmitted via the data net. The browser is software that controls the data transfer by the web server. The ECB station is configured such that the internal web server can communicate with the internal browser and external browsers of the data net or the browser of another ECB station. As an alternative or in addition, the internal browser may communicate with the internal web browser and the external web server or the web server of another ECB station. The particularity of the invention is that the data communication between the user interface and the ECB means is performed via the internal server. That means that the signals of the user interface are converted to the standard of the data net. The internal web server is provided with the signals from the user interface in the same manner and in the same data format as the data from the data net are supplied to the internal web server. As a consequence, the ECB unit receives all signals for inquiries, settings, instructions and other functions from the web server, regardless of whether these data have been provided from an internal or an external source, e.g., an external ECB station."

A further understanding of the invention can be derived from a reading of independent claim 1, a copy of which appears in the Appendix to appellants' brief.

Appeal No. 2005-2285  
Application No. 09/971,031

The prior art references relied upon by the examiner in rejecting the appealed claims are:

Davis, Jr. (Davis)                      6,551,266                      Apr. 22, 2003

Fletcher-Haynes et al.    US 2003/0154108    Aug. 14, 2003  
(Fletcher-Haynes) (Published U.S. Patent Application)

Claims 1 through 7 stand rejected under 35 U.S.C.  
§ 103(a) as being unpatentable over Davis in view of Fletcher-Haynes.

Rather than reiterate the examiner's commentary with regard to the above-noted rejection and the conflicting viewpoints advanced by appellants and the examiner regarding the rejection, we make reference to the final rejection (mailed February 13, 2004) and the examiner's answer (mailed November 3, 2004) for the reasoning in support of the rejection, and to appellants' brief (filed August 11, 2004) and reply brief (filed June 3, 2005) for the arguments thereagainst.

#### OPINION

In reaching our decision in this appeal, we have given careful consideration to appellants' specification and claims, to the applied prior art references, and to the respective positions articulated by appellants and the examiner. As a consequence of our review, we have made the determination that the examiner's rejection

Appeal No. 2005-2285  
Application No. 09/971,031

before us on appeal will not be sustained. Our reasoning in support of that determination follows.

In rejecting claims 1 through 7 under 35 U.S.C. § 103(a), the examiner contends that Davis discloses a therapeutic apheresis system, which is an extracorporeal blood (ECB) treatment machine. The examiner then contends that 1) the device of Davis has a CPU and a storage device, as well as associated software required to manage and control the system over an internet platform, and 2) the device includes a computerized data management system that permits coordinating, managing, directing, entering, accessing, and analyzing all aspects of remote and local apheresis systems on the network. In light of those disclosures, the examiner concludes that Davis indicates that the system therein incorporates all software and hardware to establish and maintain an internet connection. The examiner then makes the following comments concerning the Internet generally and Fletcher-Haynes in particular:

"Using the Internet as a communication tool is an obvious solution to communications problems, since the Internet provides a common language that various machines on a network can use to communicate with one another, as taught by Fletcher-Haynes (see paragraphs 0204-0206). The communication system used in Fletcher-Haynes' extracorporeal blood treatment system specifically discloses a web interface that allows communication

Appeal No. 2005-2285  
Application No. 09/971,031

between a computer/database system and various other computer systems." (final rejection, page 3)

Following the above-noted commentary, the examiner concludes that it would have been obvious to one of ordinary skill in the art at the time of appellants' invention:

"to provide the extracorporeal treatment device and computerized data management system disclosed by Davis with the internet communications software disclosed by Fletcher-Hayes in order to provide a means of communication that can be decoded by various machines on the network, as taught by Hayes [sic]. Furthermore, it would have been obvious to combine the communications hardware and software in an integrated unit, since it has been held that forming in one piece an article which has formerly been [sic, been] formed in two pieces and put together involves only routine skill in the art. See MPEP 2144.04"

In the brief, appellants express total agreement with the examiner's assessment of the teachings of Davis and with the examiner's view that it would have been obvious to one of ordinary skill in the art at the time of the present invention to connect the ECB machines of Davis to any computer system using the Internet communications technique of Fletcher-Haynes and further obvious to combine the communications hardware and software in an integrated unit so as to allow communication between a computer/database system and various other computer systems. However, appellants note that the invention as defined in claim 1 on appeal is more specific than mere communication via the Internet, and point out that both the

Appeal No. 2005-2285  
Application No. 09/971,031

examiner's position and the applied references fail to address the last limitation of claim 1, which specifically requires that "the data communication between the user interface and the ECB means is effected through the internal browser."

Like appellants, we find nothing in either of the applied references or in the examiner's position which specifically addresses the requirement in claim 1 that the data communication between the user interface and the ECB means of an individual ECB station be effected through the internal browser of the station. Davis provides no details concerning data communication within an individual ECB station, and while Fletcher-Haynes discusses use of the user interface (199) of the blood component separation/collection machines (10) therein to permit data entry and manipulation at/on each machine, it does not disclose, teach or suggest that such data communication between the user interface and the ECB means is effected through the internal browser of the machine (10). Thus, we conclude that the examiner has not made out a prima facie case of obviousness, and for that reason we refuse to sustain the rejection of claims 1 through 7 under 35 U.S.C. § 103(a) as being unpatentable over Davis in view of Fletcher-Haynes. The decision of the examiner is accordingly reversed.

Appeal No. 2005-2285  
Application No. 09/971,031

REVERSED

*Charles E. Frankfort*  
CHARLES E. FRANKFORT  
Administrative Patent Judge

WILLIAM F. PATE, III  
Administrative Patent Judge

MURRIEL E. CRAWFORD  
Administrative Patent Judge

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Appeal No. 2005-2285  
Application No. 09/971,031

Vincent L. Ramik  
DILLER, RAMIK & WIGHT  
7345 McWhorter Place, Suite 101  
Annandale, VA 22003

CEF/jrg